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JIMMY CARTER—HUMAN RIGHTS

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"There's an ideological struggle that has been in progress for decades between the Communist Nations on the one hand and the Democratic Nations on the other. Mr. Brezhnev and his predecessors have never refrained from expressing their views when they disagreed with some aspect of social or political life in the Free World, and I think we have a right to speak out openly when we have a concern about human rights whenever those abuses occur."

—Jimmy Carter, March 25, 1977

This paper, in examining the international and domestic human rights policy of the United States government, will attempt to discover if there is any possibility that real rewards will be forthcoming to those for whom the policy was created. The examination will use two levels of analysis: the international level and the domestic level.

To raise the topic of human rights in the context suggested in the statement of President Carter is to ask: What is the basis by which we judge our actions in the world? The basis rests in two sets of rights—namely the civil liberties of the Constitution and the rights of man in the Declaration of Independence. The former deal with problems of justice and order within the domestic jurisdiction of the state; the latter, by contrast, identify Americans as members of humanity at large and proclaim that all men everywhere, being equally entitled to life, liberty and the pursuit of happiness, may claim independence and statehood as functions of this innate right of self-determination. Thus, the American political tradition has been framed in terms of the language of human and civil rights. The documents created by the founding fathers as the basis for a new nation assert that there is a body of moral truths under which we are held accountable before the world.

Today, primarily as a result of the 1975 Helsinki Conference on Security and Cooperation in Europe (CSCE) and the review of that conference in Belgrade in 1977, in addition to the foreign policy pronouncements of the Ford and Carter administrations, the issue of human rights has become newly important.

In the meeting halls of the Sara Center in Belgrade, delegations from thirty-five nations met to continue and review the 1975 Helsinki Conference on Security and Cooperation in Europe. From these meetings would

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come the final document that, in principle, all must approve, but that in fact the Soviet Union failed to sign. Again the principal subject at Belgrade was human rights, resulting from a conjunction in space and time of Helsinki-Belgrade's European conceptualization of the problem, the Carter administration's outspoken moral internationalization of it, and such deliberately coincidental additions as Amnesty International's declaration of 1977 as a worldwide "Year of the Political Prisoner."

This most recent focus of attention on human rights appears in the Final Act that was signed in Helsinki by the leaders of thirty-three European countries and the United States and Canada. That document consisted of three "baskets," devoted respectively to European security (on the basis of ten principles), to East-West economic cooperation, and to East-West cultural and human contacts. Although the Belgrade review was, in theory, concerned with all of these, time, words and conflicts centered on Principles Six and Seven in Basket One and on the humanitarian and rights clauses in Basket Three. In Principle Six, the signatory states have pledged noninterference in one another's internal affairs. Principle Seven, which can be interpreted as establishing an exception to that rule, states that there can be no enduring European security unless each signatory state insures respect for human rights and fundamental freedoms including freedom of thought, conscience and religion or belief. Basket Three includes pledges to facilitate free movement among the signatory states for information, ideas and people, with special attention under the last category to specific problems like the reunification of families divided by political and ideological borders. Without going into detail or presenting a long series of quotes, we are all aware that the Carter administration has missed few opportunities to identify the issue of human rights with his administration.

Yet after all the words are written, and all the meetings ended, one might ask about the success of a policy based as it is on such high moral standards. How are we to judge the success of this policy of human rights? One way is to measure the success of this policy in terms of rewards to those who are to receive the benefits from the implementation of a successful human rights program. The rewards of victories come in two forms—symbolic and material. Symbolic rewards need not be more than significant statements of policy issued by heads of state or other key governmental leaders. These will be positive statements, almost promises that give new hope and expectations to those in need of relief from their unfortunate circumstances.

For example, the *Brown v. Board of Education* decision, rendered by the Supreme Court in 1954, was judged a symbolic victory for blacks in the United States. In the decade following the decision, however, the economic and educational conditions of blacks changed very little. The United Nations Universal Declaration of Human Rights likewise appears to be symbolic, since the new agreements agreed to at Helsinki seem to be restating many of the principles agreed to in the United Nations Declaration of Human Rights. Another example of symbolic rewards may well be

Amnesty International's Declaration of 1977 as a worldwide year of the political prisoner. One might honestly question what real effect this particular declaration has had on the political prisoners throughout the world.

Finally, there are the statements of President Ford after the Helsinki Agreement, in which he suggested that this agreement has brought us

[a] public commitment by the leaders of the more closed and controlled countries to a greater measure of freedom and movement for individuals, information, and ideas than has existed there in the past and . . . a yardstick by which the world can measure how well they live up to these stated intentions. It is a step in the direction of a greater degree of European community of expanding East-West contacts.

Addressing the Conference on August 1, 1975, the President enumerated the most fundamental of human rights constituting the main content of Basket Three. These were liberty of thought, conscience and faith, the exercise of civil and political rights and the rights of minorities. These fundamental rights, the President continued, call for the exercise of certain secondary rights: "A freer flow of information, ideas and people; greater scope for the press; cultural and educational exchange; family reunification; the right to travel and to marriage between nationals of different States; and . . . the protection of the priceless heritage of our diverse cultures." Finally, Mr. Ford reminded the people of the East "that the principles on which the Conference had agreed are part of the great heritage of European civilization which we all hold in trust for all mankind."

In aligning itself firmly with these positions on human rights, the Carter administration has so far compounded existing confusions. The President's inaugural address thus placed a heavy accent on our moral duties, "the quiet strength of noble truths and this country's absolute commitment to human rights"; and his commencement address at Notre Dame University in May 1977 announced the need for an entirely "new foreign policy that is democratic, based on our fundamental values, and that uses power and influence for humane purposes." This foreign policy, President Carter explained, "is rooted in our moral values; it is designed to serve mankind." The President pledged his administration "to shape a world responsive to human aspirations in which nations of diverging cultures and histories can live side by side in peace and justice."

In a Law Day ceremonies speech, Cyrus R. Vance delivered his first public address as Secretary of State and chose as his subject "Human Rights and Foreign Policy." Our human rights policy, he said, "must be understood in order to be effective." All such statements and agreements have the capacity of giving hope to those who are in need of relief from exploitation.

We cannot judge the success of the United States' human rights policy through symbolic rewards, however, but rather must look to the tangible results. Through tangible results we can measure the degree of change in the lifestyle of those suffering from a lack of fundamental rights.

Before examining this notion of tangible results, it might be useful to

pause here and give some thought to the notion of the common good. For after all, the success of a human rights policy can only be measured as both symbolic rewards and tangible results move society closer to the ideal of society—the common good.

In defining the meaning of the common good, it seems fitting and proper to look to the words and ideas of Jacques Maritain, presented in a lecture many years ago:

Yet we must not say that the aim of society is the individual good (or the mere collection of individual goods) of each person who constitutes it! This formula would dissolve society as such for the benefit of its parts, and would lead to the "anarchy of atoms." It would mean either a frankly anarchic conception of individualistic liberalism—according to which the entire duty of society consists in seeing that the freedom of each should be respected, though this permits the strong freely to oppress the feeble.

The end of society is its common good, the good of the body politic. But, if one fails to grasp the fact that the good of the body politic is a common good of human persons—as the social body itself is a whole made up of human persons—this formula may lead in its turn to other errors of the collectivist or totalitarian type. The common good of society is neither a simple collection of private goods, nor a good belonging to a whole which (as in the case of the species in relation to its individual members) draws the parts to itself, as if they were pure means to serve itself alone. The common good is the good human life of the multitude, of a multitude of persons; it is their communion in the good life; it is therefore common to the whole and to the parts, on whom it flows back and who must all benefit from it. Under pain of being itself denatured, such a good implies and demands the recognition of the fundamental rights of the person (and of the rights of the family, in which the persons are engaged in a more primitive mode of communal living than in political society). It involves, as its chief value, the highest possible accession (an accession compatible with the good of the whole) of persons to their life as persons, and to their freedom of expansion, as well as to the communications of goodness which in turn proceed from it.

The end of the state is the common good, which is not only the collection of advantages and utilities, but also rectitude of life, an end good in itself, which the old philosophers called 'bonum honestum,' the intrinsically worthy good. For, on one hand, it is the just and morally good existence of the community in accordance with justice and with moral good, that the common good is what it is: the good of a people, the good of a city, and not the 'good' of an association of gangsters or of murderers. That is why perfidy, the contempt of treaties and of sworn faith, political murder or unjust war—all these can be useful to a government, and procure, if only for a time, advantages to the peoples who have recourse to them; but they debase and destroy, as far as in them, lies the common good of these peoples.

The common good is a thing ethically good. And this common good itself includes, as an essential element, the greatest possible development of human persons, of those persons who form the multitude, united, in order to constitute a community, according to relations not only of power, but also of justice. Historical conditions, and the present inferior state of humanity's development, make it difficult for social life fully to attain this end. But the end toward which it tends is to procure to the multitudes the common good

in such a fashion that the concrete person gains a real independence regarding nature, which is insured through the economic guarantees of labor and of property, through political rights, the civil virtues, and culture of the mind.¹

In order for the human rights policies to be judged meaningful within the precepts described by Jacques Maritain, it will be necessary to transform the abstract concepts and ideals of the Carter policy into positive concrete programs, linked to U.S. foreign policy. There are two questions which naturally flow from this: first, whether the United States truly is interested in initiating positive, concrete programs in the foreign sphere; and second, whether asserting such policies is practicable.

Despite the attention paid to concepts of human rights by the Carter administration, there are some who feel that enthusiasm for human rights, if it was ever meant to be a serious point of United States foreign and domestic policy, is fading.

In observing the international scene with reference to human rights, one can divide the world between those who are considered allies of the United States and those others whose policies are generally perceived as less friendly to the United States. It would seem to some that if the United States was truly serious about human rights and its positive implementation, they would take positive action to halt human rights violations within the allied countries. It might be suggested that we have no business or influence in the internal affairs of allies; however, the reality is that our relationships with many nations in the world are an intricate web of associations involving trade arrangements, banking interests, foreign and military assistance, as well as political, social and cultural ties.

When the internal conduct of a nation with whom the United States has a significant association becomes seriously restrictive of human rights, the moral integrity of our policy is challenged. A failure on the part of the United States to attempt to remedy situations where rights of citizens are being violated suggests that human rights possibly does not stand as high on the priority list as economic and military assistance to regimes we help maintain through our continued support. In principle, the United States maintains that it is committed to uphold the standards of the United Nations Declaration of Human Rights and the Helsinki Agreement. Yet, from Korea in Asia to Chile in Latin America, we are deeply involved in supporting regimes which have been consistently accused of human rights violations. If the administration's human rights policy is to provide more than symbolic rewards, it will be necessary for United States policymakers to find ways to give sustained and systematic attention to charges of human rights violations and to take explicit and effective measures of redress. If the United States finds it uncomfortable to take positive steps with countries which it supports, then what are the possibilities of success-

¹ J. MARITAIN, *SCHOLASTICISM AND POLITICS* 72-74 (1940).

ful measures against countries such as the Soviet Union and other members of the Warsaw Pact? In this situation, policymakers must add one additional variable of national security.

When dealing with those nations not considered part of the West, whether the issue is religious freedom in Eastern Europe or Jewish immigration in the Soviet Union, it is necessary to note that we are not simply an impartial, uninvolved observer. When we fail to speak out in defense of human rights because we fear our strategic or financial interests are at stake, then we become part of the human rights problem. The United States is not omnipotent, but neither can it hide behind the claim of impotence. Since we have some effective measures for claiming respect for human rights, whether and how we use this potential is a moral issue of the first order and a severe test of our priorities regarding human rights. There is some evidence that the Carter administration is losing its taste for human rights as an issue. For example, the Ford administration established a Coordinator for Human Rights and Humanitarianism Affairs in the Office of the Secretary of State. The coordinator had deputies for Refugee and Migration Affairs, Human Rights, and Prisoners of War and Missing-in-Action. The Carter administration later asked Congress to change the coordinator's title to that of Assistant Secretary. According to Senator Moynihan, this change may indicate that the Secretary of State had a declining interest in the coordinator's area of responsibility and was reducing it to bureaucratic control.

More recently, it has been suggested that during last summer's preparatory meeting in Belgrade, the former leaders of the American delegation conceived their primary task to be one of persuading their Soviet opposite numbers that they had less to fear from the review conference than they thought.

Finally, it is being suggested to Mr. Carter that he is damaging détente by pressing the Soviet Union on the issue of human rights. Mr. Carter is being told to concentrate on the security aspects of the Helsinki Agreement and push the human rights aspects, especially Basket Three, into the background since the United States can only hope to influence the Soviet Union indirectly regarding human rights.

It would appear that there is little hope and less evidence that the United States can and will go beyond rhetoric regarding human rights in international affairs, which leads to the question whether it would be possible to take steps to implement positive policies to change the life style of those suffering from human rights violations. The answer, based on the world of the Realpolitik, seems to be "no." The risk of war, the risk of financial losses, and a loss of friendship of allies seem to suggest to United States policymakers that human rights changes and policies must be handled in some indirect manner. Thus, we must conclude that the exploited can expect only symbolic rewards for the present time.

If the Carter administration is content with limited activity to those who are oppressed in the world, can we expect a more dynamic domestic policy regarding human rights? In looking at the Carter program of human

rights for the unborn, it is obvious that Carter is almost as quiet a President as he was as a candidate. Since the Supreme Court in its pro-abortion decisions nearly destroyed all opportunity for any type of rewards for the unborn, the only area where there seems to be some interest in tangible and symbolic rewards for the unborn is in Congress. Various attempts have been made to add an amendment to the Constitution that would prevent abortion, yet through all of this the President has been virtually silent. This suggests that Mr. Carter is reluctant to participate in any debate regarding human rights for the unborn. Therefore, unless there is some new incentive from the Carter administration, there is little hope for any type of rewards for the unborn in the United States.

In the final analysis, the human rights policy of the United States seems weak and ineffectual on the international level and nonexistent domestically.